IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 854 OF 2006
IN
NOTICE OF MOTION NO. 31 OF 2006
IN
MISC. PETITION NO. 10 OF 2005

Muradkhan M. Babi] .. Appellant (Ori.Applicant)

Versus

The Administrator Genl. of Maharashtra] .. Respondent (Ori.Petitioner)

Mr. S.H. Doctor, senior counsel with Ms. J.M. Sidhwa i/b Manoj Bhatt for the appellant.

Mr. A.L.N. Khatri i/b M/s. A.L.N. Khatri & Co. for the respondent.

CORAM: R.M. LODHA, &
S.A. BOBDE, JJ.

DATED: 04TH DECEMBER, 2006

P.C. :

. Heard Mr. S.H. Doctor, the senior counsel for the appellant and Mr. A.L.N. Khatri, the counsel for the respondent.

2. At this stage, we are satisfied that no case was made out by the appellant for dismissal of the Misc. Petition taken out by the Administrator General. However, in view of Section 11 of the Administrator General's Act, 1963, in the proceedings initiated by the

Administrator General to obtain letters of administration, it is always open to the present appellant to appear and establish his claim for the Will of the deceased being probated or grant of letters of administration as next of kin of the deceased. We, thus, observe that if the Chamber Summons taken out by the Administrator General for amendment of the Misc. Petition for grant of letters of administration is granted, the appellant may appear and establish his claim for Will of the deceased being probated or for grant of letters of administration as next of kin of the deceased. If necessary, the appellant may also apply to the learned Testamentary Judge for consideration of the Testamentary Petition No.484 of 2005 along with the present Misc. Petition.

3. With the aforesaid observation, Appeal is disposed of.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]